

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION – CINCINNATI**

In re:	:	Case No. 17-13071
	:	
Dawn Warman	:	Chapter 13
	:	
Debtor(s)	:	Judge Buchanan
	:	
	:	<u>RESPONSE TO CHAPTER 13 TRUSTEE'S</u>
	:	<u>MOTION TO DISMISS</u>
	:	

Now comes the Debtor Dawn Warman ("Debtor"), by and through counsel, and hereby responds to the Motion to Dismiss ("Motion") filed by the Chapter 13 Trustee Margaret A. Burks ("Trustee"). In support of this Response, Debtor offers the following:

1. Debtor concedes that plan payments have not been submitted consistent with the terms of the proposed and unconfirmed Chapter 13 plan.
2. The funding of the proposed Chapter 13 plan is largely contingent upon the outcome of a pending post-decree motion in domestic relations court. This motion seeks to compel Debtor's ex-husband to increase his financial contribution to Debtor to cure the mortgage arrearage on the Debtor's residence and to assist with payment of the ongoing mortgage. The motion has been filed but not yet ruled upon by the domestic relations court.
3. If the domestic relations court motion is unsuccessful, the plan as proposed is not feasible. Even if the motion is successful, Debtor will likely need to submit an amended plan to account for the delay in funding by Debtor's ex-husband.
4. Debtor has continued to submit \$950.00 per month in every month that this case has been pending, which represents all of Debtor's current available disposable income. Debtor is continuing to proceed in this case in good faith.
5. The only party that is arguably prejudiced by the continuing of this case is the mortgage creditor DiTech Financial ("DiTech"). DiTech has filed its proof of claim in this case (see Claim No. 1). DiTech has taken no action to obtain relief from the automatic stay or to dismiss the case. Therefore, by their silence, Debtor submits that DiTech does not oppose this case continuing to allow the domestic relations matter to reach its conclusion.
6. Debtor requests that a preliminary hearing be scheduled on the Trustee's Motion in approximately 60 days to allow additional time for the domestic relations matter to reach a conclusion. At that time, Debtor shall report on the status of this matter. Debtor prays that the case remain pending in the interim.

WHEREFORE, having fully responded to the Trustee's Motion, Debtor prays that a hearing be scheduled regarding this Motion in sixty days.

Respectfully submitted,

/s/ Nicholas A. Zingarelli (OH-0079110)

Nicholas A. Zingarelli (OH-0079110)

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Response to Motion to Dismiss was served (i) electronically on the date of filing through the court's ECF System on all ECF participants registered in this case at the email address registered with the court and (ii) by ordinary U.S. mail on March 12, 2018 to:

Dawn Warman

7724 Hunters Trail

West Chester, OH 45069

/s/ Nicholas A. Zingarelli (OH-0079110)

Nicholas A. Zingarelli (OH-0079110)